

REMARKS

The Office Action of June 7, 2010, has been carefully considered.

It is noted that claims 1, 4-6 and 8-12 are rejected under 35 USC 103 (a) over DE 19926474 to Minatti in view of the patent to Kinnanen, et al.

Claim 3 is rejected under 35 USC 103 (a) over Minatti and Kinnanen, et al., and further in view of the patent to Bayer, et al. or the patent to Ohta.

Finally, it is noted that claim 7 would be allowable if rewritten in independent form.

In view of the Examiner's rejections of the claims, Applicant has amended independent claim 1.

It is respectfully submitted that the claims now on file differ essentially and in an unobvious, high advantageous manner from the constructions disclosed in the references.

Turning now to the references, and particularly to Minatti, this reference was discussed at length in the last filed amendment and those comments are incorporated herein by reference.

The patent to Kinnanen, et al. discloses a vehicle with a

folding top.

The Examiner combined these references and determined that claims 1, 4-6 and 8-12 would be unpatentable over such combination.

Applicant submits that Kinnanen, et al. does not provide features which could be combined with Minatti so as to arrive at the presently claimed invention. In Kinnanen, et al., when the rear bow 7 is in an open position as shown in Figure 2, this is only an instant during the movement of opening or closing the roof. Thus, the position with the raised rear section is not a stable position that can be held while the car is driving. This means that the position of the roof with the raised rear bow as shown in Figure 2 can never be used for ventilation of the passenger compartment during driving. In the presently claimed invention, on the other hand, it is possible to realize a low-draft ventilation position, see page 2, lines 9-12 of the specification of the present application. Thus, neither of the references taken alone or in combination teaches a construction in which a ventilation position of the roof is provided.

Furthermore, the roof according to Kinnanen, et al. has a kinematic function that is totally different from the roof of

the presently claimed invention. In Kinnanen, et al. the rear bow 7 is pivotable on a hinge located above the belt line of the car body. Thus, in each position, the bow is held above the belt line. There is no way to lower the roof completely into the car body because the bow 7 and the part of the cover held directly on this bow are above the belt line in each situation. Furthermore, the raisable roof part of Kinnanen, et al. is not "a moveable roof part [that] extends from an area adjacent to a windshield frame to a rear part ...", as recited in the presently claimed invention. The raisable roof part of Kinnanen, et al. is the rear roof part. This is because the rear bow of Kinnanen, et al. is not located at the rear end of an "at least essentially horizontally extending moveable roof part" as in the presently claimed invention. The openable rear roof section of Kinnanen, et al. is nearly vertical (see Figure 1). Thus, when the rear bow of the rear roof part of Kinnanen, et al. is raised there is an opening directly above the belt line, i.e. in the area of the necks of the passengers. Such an opening can never be a low-draft ventilation position. In the presently claimed invention, the bow is located between the upper edges of the side windows of the motor vehicle, i.e. in an area above the heads of the passenger, which makes it

possible to open the rear section to achieve a low-draft ventilation opening.

Thus, Applicant submits that the Examiner is incorrect in stating on page 3 of the Office Action that a combination of the rear bow mechanism of Kinnanen, et al. with the device of Minatti would lead to the present invention. In fact, a rear bow according to Kinnanen, et al. cannot be combined with a roof that can be completely lowered into an opened position underneath the belt line of the vehicle. Furthermore, the rear bow of Kinnanen, et al. cannot adopt a ventilation opening position that is stable while the car is being driven. Still further, the references do not show a low-draft ventilation opening in an area between the upper edges of the side windows of the motor vehicle, above the heads of the passengers.

Therefore, Applicant submits that the combination of the references does not teach a construction as recited in the claims presently on file.

In view of these considerations it is respectfully submitted that the rejection of claims 1, 4-6 and 8-12 under 35 USC 103 (a) over a combination of the above discussed references is overcome and should be withdrawn.

The patents to Bayer, et al. and Ohta have also been

considered. Applicant submits that neither of these references adds anything to the teachings of Minatti or Kinnanen, et al. so as to teach the presently claimed invention as discussed above in connection with independent claim 1. Therefore, it is respectfully submitted that the rejection of claim 3 under 35 USC 103 (a) is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted, .



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on October 7, 2010.

By: _____

Klaus P. Stoffel

Date: October 7, 2010